

CONCLUSION

For the foregoing reasons, the Joint Commenters request that the Commission build upon its earlier *Local Competition First Report and Order* and *Advanced Services First Report and Order* and adopt the collocation rules proposed herein. The Commission should clarify and expand its collocation and unbundling rules to remove additional barriers to entry not addressed in previous orders and further level the playing field. The rules advocated herein are required to ensure that ILECs provide physical collocation as needed to implement fully Sections 251(c)(2) and 251(c)(3) of the Act and achieve the pro-competitive statutory purposes of the 1996 Act.

Respectfully submitted,

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via hand delivery

Re: LightNetworks, Inc.

Dear Ms. Remy:

LightNetworks, Inc., through its counsel, hereby seeks to enlist the assistance of the FCC's Collocation Task Force in resolving certain problems that LightNetworks is experiencing in obtaining physical collocation arrangements in BellSouth central offices. LightNetworks has diligently sought resolution of these issues through a face-to-face meeting with BellSouth on January 25, 2000, in Atlanta, as well as through correspondence and numerous phone calls. LightNetworks approaches the Task Force now that it has become apparent that these issues are not susceptible to resolution without regulatory intervention. LightNetworks seeks this intervention on an informal basis in the hope that more formal adjudication will not be required. Nevertheless, in order to move forward with its business plan, LightNetworks is prepared to proceed with whatever action is required to have these matters resolved as expeditiously as possible.

LightNetworks is a relatively new competitive local exchange carrier ("CLEC") that already has entered into interconnection agreements with BellSouth covering several southern states. Pursuant to those agreements, LightNetworks has submitted numerous applications to BellSouth to interconnect and establish physical collocation arrangements, beginning in the

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states of Georgia, Florida, Tennessee, and North Carolina. Expeditious and timely processing of these interconnection and collocation arrangements is critical to LightNetworks' ability to execute its business plan and honor commitments made to investors. However, certain actions or inactions of BellSouth are imposing serious delays.

Denial of Cageless Collocation in Offices where BellSouth Offers Virtual Collocation

BellSouth has denied LightNetworks' requests for cageless collocation in at least four (4) Atlanta area central offices on the ground that non-enclosed space for physical collocation is exhausted (*i.e.*, ATLNGAWD/WOODLAND OFFICE, ALRPGAMA/ ALPHARETTA MAIN, BUFRGAMA/BUFORD MAIN and ATLNGABU/BUCKHEAD OFFICE). A tour of these facilities revealed the existence of unused space. LightNetworks was told that the space was reserved for the future use of BellSouth. Even more troubling, BellSouth offered LightNetworks virtual collocation arrangements as an alternative option, which BellSouth has explained to LightNetworks could be accommodated using this "reserve" space.

Since rack space was available for virtual collocation arrangements in these offices, LightNetworks believes its request for cageless physical collocation on such racks could reasonably be accommodated. Until BellSouth uses these racks for its own equipment at some unspecified date in the future, BellSouth is willing to permit virtual collocation in that space but *not* cageless collocation. In LightNetworks' estimation, this blatantly violates the FCC's Rules and its March 31, 1999 order on collocation (*Deployment of Wireline Services Offering Advanced Telecommunications Capability*, FCC 99-48, CC Docket No. 98-147 (Mar. 31, 1999) ("*Collocation Order*")). Section 51.323(k)(2) of the Rules clearly state that:

An incumbent LEC may not require competitors to use an intermediate interconnection arrangement in lieu of direct connection to the incumbent's network if technically feasible. In addition, an incumbent LEC *must give competitors the option of collocating equipment in any unused space within the incumbent's premises*, and may not require competitors to collocate in a room or isolated space separate from the incumbent's own equipment.

The *Collocation Order* makes clear that the reservation of space for BellSouth's use in the indeterminate future and BellSouth's refusal to make space set aside for virtual collocation available for cageless collocation are not permitted. The *Collocation Order* found that "segregation only serves to increase the costs of collocation and decrease the amount of available collocation space." *Collocation Order*, ¶ 42.¹

¹ LightNetworks believes that the availability of space for virtual collocation reveals that space exists that could accommodate cageless collocation.

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Impermissible Restrictions on Types of Equipment That May be Collocated

Were LightNetworks to opt for virtual collocation at BellSouth's suggestion, LightNetworks would be placed at a material disadvantage. BellSouth seeks to place unreasonable and impermissible restrictions on the equipment LightNetworks desires to collocate in BellSouth central offices on a virtual basis. The FCC's Rules do not permit restrictions except on the bases that (1) the equipment will not be used for interconnection or access to unbundled network elements or (2) appropriate safety standards. 47 C.F.R. § 51.323(b). The restrictions BellSouth imposes are not covered by these two exemptions. Rather, BellSouth has refused to process virtual collocation firm order documents for equipment that is not yet OSMINE compliant and has not yet been assigned HECIG codes. LightNetworks is seeking to deploy new and leading edge equipment for which such codes have not yet been obtained and assigned by the equipment vendors, a process that can take six months. This equipment has already been shown to meet the applicable safety standards. The absence of such codes in no way bears upon the adherence of the equipment to any potentially applicable safety standards. Rather, the OSMINE process and codes in question relate to BellSouth's requirements under its legacy systems for provisioning and inventorying of CLEC equipment placed in virtual collocation spaces. BellSouth's refusal to process LightNetworks' firm order documents on these grounds plainly contravenes what Section 251(c)(6) of the Act and the FCC's Rules allow and unjustifiably frustrate the ability of competitors to deploy efficient cutting-edge facilities. At a minimum, these restrictions further highlight the need for BellSouth to make the space reserved for virtual collocation available for cageless collocation, as explained earlier.

Unreasonably High and Arbitrary Site Preparation Fees

Finally, LightNetworks has received quotes for site preparation at different BellSouth premises that vary wildly despite the fact that the parameters of the arrangements sought were largely identical. No justification has been given by BellSouth, despite LightNetworks' requests. As a result, in some cases, BellSouth seeks payment of exorbitant amounts from LightNetworks that in some cases, LightNetworks fears, may not just be unreasonably high but may also represent recovery from LightNetworks for costs that ultimately may be for the benefit of other collocators, present or future. Such recovery, of course, violates the FCC's request that ILECs recover costs for space preparation "on a pro-rated basis so the first collocator in a particular incumbent premises made not be responsible for the entire costs of site preparation." *Collocation Order*, ¶ 51.

Some examples from BellSouth's responses to LightNetworks' applications for physical collocation ("Responses") should suffice to illustrate the problem. LightNetworks has sought essentially identical collocations in a number of Florida premises, each requiring 32 square feet of space and approximately the same amount of engineering time (*i.e.*, 84 to 88 hours). Nonetheless, BellSouth's purportedly pro-rated amounts for power at some premises are almost

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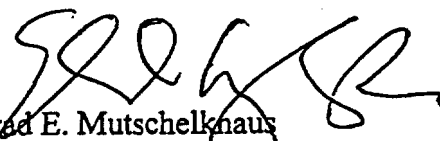
400 percent what they are at other premises, a difference of many thousands of dollars. Similarly, total space preparation costs in these two offices are grossly divergent as well, by a factor of as much as 7:2, which represents a differential of several tens of thousands of dollars. Not only is there no basis for this variation – indeed, more expensive estimates often involve fewer engineering hours – but the charges for space preparation in all cases are unreasonably high, especially given that LightNetworks will supply all cabling and relay racks. BellSouth must supply only the overhead racking and power. BellSouth has provided no satisfactory explanation to LightNetworks for the discrimination between different premises or the generally high levels of the proposed charges.

BellSouth has recently filed proposed collocation site preparation charges with the North Carolina Commission. LightNetworks proposed using those BellSouth prepared rates as a proxy until final rates are issued. BellSouth declined. LightNetworks therefore seeks Commission intervention to assist the parties in establishing proxy rates until the state commissions adopt final rates.

* * * *

LightNetworks would appreciate the opportunity to discuss this matter with you in person at your earliest convenience. LightNetworks strongly believes that FCC intervention at this point and any efforts to facilitate the parties achieving common ground will be invaluable in helping LightNetworks progress in bringing competitive services to consumers expeditiously within BellSouth's operating territory. We will call you in a few days after you have had the opportunity to review this letter to discuss scheduling a meeting. Do not hesitate to contact us if you should have any questions.

Respectfully submitted,



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Enclosures

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CERTIFICATE OF SERVICE

I, Charles M. Hines III, hereby certify that on this 12th day of October, 2000, I served copies of the attached Joint Comments by hand on the following:

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A handwritten signature in black ink, appearing to read "Charles M. Hines III", written in a cursive style.

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